

# United States District Court

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

ADISON BAPTISTA MATHIAS

**CRIMINAL COMPLAINT**

CASE NUMBER: 04 - M00054 - LPC

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about October 7, 2002 in Middlesex county, in the

District of Massachusetts defendant(s) did, (Track Statutory Language of Offense)

willfully, knowingly and with intent to deceive use a social security account number assigned on the basis of false information furnished to the Commissioner of Social Security by defendant; and, after having been denied admission, excluded, deported or removed has entered or attempted to enter or has been found in the United States without the express approval of the Attorney General prior to March 1, 2003 or the Secretary of the Department of Homeland Security subsequent to that date

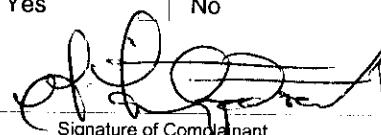
in violation of Title 42 and 8 United States Code, Section(s) 408(A)(7)(a) and 1326(a)

I further state that I am a(n) Special Agent and that this complaint is based on the following facts:

See attached affidavit.

Continued on the attached sheet and made a part hereof:

Yes  No



Signature of Complainant

Sworn to before me and subscribed in my presence,

08-31-2004

Date

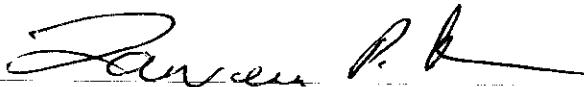
at

Boston, Massachusetts

City and State

Lawrence P. Cohen  
U.S. Magistrate Judge

Name &amp; Title of Judicial Officer



Signature of Judicial Officer

AFFIDAVIT OF SPECIAL AGENT GLEN FITZPATRICK

I, Glen Fitzpatrick, having been duly sworn, do hereby depose and state as follows:

1. I am a Special Agent with Immigration and Customs Enforcement ("ICE"), formerly the United States Immigration and Naturalization Service ("INS"), and have been so employed since January of 1992. My duties include investigating violations of Title 8 of the United States Code as well as Title 18. During the period of my employment, I have conducted numerous investigations of regarding illegal re-entry by deported aliens as well as other criminal violations.

2. The information set forth in this affidavit is based on my own investigation, my review of relevant ICE records, and information provided by others, including special agents of the United States Social Security Administration ("SSA"), Office of the Inspector General, Office of Investigations. This affidavit does not contain all information received during the course of the investigation but contains those facts that I believe are necessary and sufficient to establish probable cause for the issuance of the requested criminal complaint charging **Adison Baptista Mathias** with illegal re-entry by a deported alien in violation of Title 8, United States Code, Section 1326(a)<sup>1</sup> and

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<sup>1</sup>8 U.S.C. §1326(a) reads in pertinent part: Any alien who - has been denied admission, excluded, deported or removed ...while an order of the exclusion, deportation, or removal is outstanding

social security account number fraud in violation of 42 U.S.C. Section 408(a)(7)(A)<sup>2</sup>.

**Illegal Re-entry**

3. **Mathias** is a native and citizen of Brazil. On November 22, 1997, Defendant entered or attempted to enter the United States at Los Angeles, California. Defendant was apprehended and placed in removal] proceedings. On November 22, 1997, Defendant was ordered removed. On November 23, 1997, Defendant was actually deported to Brazil. The verification of removal evidences the Defendant's deportation, bearing the Defendant's fingerprint and his picture.

4. On August 31, 2004, Defendant was found in the United States at Leominster, Massachusetts. Defendant's alien registration file does not contain any evidence that Defendant,

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, and thereafter, enters, attempts to enter, or is at any time found in, the United States, unless (A) prior to his re-embarkation at a place outside the Untied States or his application for admission from foreign contiguous territory, the Attorney General or the Secretary of the Department of Homeland Security has expressly consented to such alien's reapplying or admission...[is guilty of a crime.]

<sup>2</sup>42 U.S.C. §408(a)(7)(A) reads in pertinent part:  
Whoever ... for the purpose of obtaining anything of value from any person, or for any other purpose- (A) willfully, knowingly, and with intent to deceive, uses a social security account number, assigned by the Commissioner of Social Security (in the exercise of the Commissioner's authority under section 405(c)(2) of this title to establish and maintain records) on the basis of false information furnished to the Commissioner of Social Security by him or by any other person [shall be guilty of a crime.]

while outside the United States, applied for or received the express permission of the United States Attorney General prior to March 1, 2003 or the Secretary of the Department of Homeland Security subsequent to March 1, 2003 to re-enter the United States since the date of his removal.

***Fraudulent Use of Social Security Account Number Card***

5. I am aware that the Social Security Act (42 U.S.C. 301 et seq.) was enacted in 1935 to provide for the general welfare by establishing a system of Federal Benefits. The Social Security Number ("SSN"), a nine digit number, was devised as a means to keep track of the earnings of individuals who work under covered employment. Along with the SSN, the Social Security Number Card ("SSNC") was created. SSNCs are issued with or without employment restrictions depending upon the eligibility of the individual making application. The Social Security Number Card bears a Social Security Number; shows the name of the person whose record is identified by that SSN; and contains a space for the person's signature.

6. **Mathias** is a native and citizen of Brazil and, according to records maintained by Immigration and Customs Enforcement, the defendant is not present legally in the United States.

7. As an alien illegally present in the United States, the Defendant was not entitled to receive a Social Security Account

number card.

8. On or about November 30, 2001, Defendant applied for a social security account number card. Defendant falsely represented on the application, known as an SS-5, that he was a legal alien allowed to work, knowing that, in truth and in fact, Defendant was not a legal alien allowed to work.<sup>3</sup>

9. As a result of providing false information, Defendant received social security account number 644-78-9144.

10. The Massachusetts Registry of Motor Vehicles ("RMV") requires that an individual applying for a driver's license present proof of identification such as a valid social security account number.

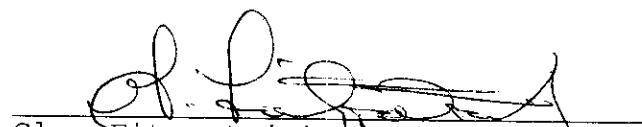
11. On October 7, 2002, **Mathias** applied for a Massachusetts driver's license. On the application, **Mathias** used the SSN he fraudulently obtained by providing the SSN to the RMV. As a result, a Massachusetts driver's license was issued to **Mathias**.

Based upon the foregoing information, I believe there is

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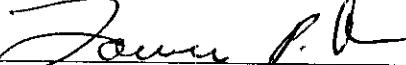
<sup>3</sup>Defendant's SS-5 application was processed by former SSA employee Jesse Rocha. On September 8, 2003, Jesse Rocha pled guilty to conspiracy to commit fraud in connection with identification documents in violation of Title 18, Untied States Code Section 1028(f); conspiracy to commit offenses against the United States in violation of 18 U.S.C. §371; conspiracy to launder monetary instruments in violation of 18 U.S.C. §1956(h) and fraud and misuse of documents in violation of 18 U.S.C. §1546(a). During his plea colloquy, Rocha admitted to processing and approving over 1700 applications for SSNCs for illegal aliens during the period from April of 2000 until December of 2002. See 02-10405-GAO.

probable cause to believe that on October 7, 2002, **Mathias** (1) having been denied admission, and having been excluded, deported and removed, thereafter, while subject to the outstanding order of exclusion, deportation or removal, was found in the United States without having received the express consent of the United States Attorney General prior to March 1, 2003 or the Secretary of the Department of Homeland Security subsequent to that date, in violation of 8 U.S.C. §1326(a); and (2) did willfully, knowingly, and with intent to deceive, use a Social Security account number, assigned by the Commissioner of Social Security on the basis of the false information furnished to the Commissioner of Social Security by the defendant and other persons on the defendant's behalf, to apply for and to obtain a Massachusetts driver's license in violation of Title 42, U.S.C. §408(a)(7)(A).



Glen Fitzpatrick  
Special Agent  
Immigration and Customs  
Enforcement

Subscribed and sworn to before me this 31<sup>st</sup> day of August, 2004



LAWRENCE P. COHEN  
UNITED STATES MAGISTRATE JUDGE

Criminal Case Cover SheetU.S. District Court - District of MassachusettsPlace of Offense: Lawrence RMV Category No. II Investigating Agency ICECity Lawrence**Related Case Information:**County Essex

Superseding Ind./ Inf. \_\_\_\_\_ Case No. \_\_\_\_\_  
 Same Defendant \_\_\_\_\_ New \_\_\_\_\_  
 Magistrate Judge Case Number 04-M00054-LPC  
 Search Warrant Case Number \_\_\_\_\_  
 R 20/R 40 from District of \_\_\_\_\_

**Defendant Information:**Defendant Name Adison Baptista Mathias Juvenile  Yes  No

Alias Name \_\_\_\_\_

Address 205 Mechanic Street, # 2, Leominster, MA 01453Birth date (Year only): 1950 SSN (last 4 #): 9144 Sex M Race: \_\_\_\_\_ Nationality: Brazilian

Defense Counsel if known: \_\_\_\_\_ Address: \_\_\_\_\_

Bar Number: \_\_\_\_\_

**U.S. Attorney Information:**AUSA Thomas E. Kanwit Bar Number if applicable 547251Interpreter:  Yes  No List language and/or dialect: PortugueseMatter to be SEALED:  Yes  No

Warrant Requested  Regular Process  In Custody

**Location Status:**Arrest Date: August 31, 2004

Already in Federal Custody as \_\_\_\_\_ in \_\_\_\_\_.

Already in State Custody \_\_\_\_\_  Serving Sentence  Awaiting Trial

On Pretrial Release: Ordered by \_\_\_\_\_ on \_\_\_\_\_

Charging Document:  Complaint  Information  IndictmentTotal # of Counts:  Petty \_\_\_\_\_  Misdemeanor \_\_\_\_\_  Felony 2

Continue on Page 2 for Entry of U.S.C. Citations

I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.

Date: August 31, 2004 Signature of AUSA: Thos E.

~~JS 45 (5/97) - (Revised USAO MA 3/25/02) Page 2 of 2 or Reverse~~

District Court Case Number (To be filled in by deputy clerk): \_\_\_\_\_

Name of Defendant Adison Baptista Mathias

## U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>42 U.S.C. §</u>	<u>Social Security Fraud</u>	<u>1</u>
Set 2	<u>8 U.S.C. §</u>	<u>Illegal Re-Entry</u>	<u>2</u>
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: